

HARRIS COUNTY PUBLIC HEALTH RYAN WHITE GRANT ADMINISTRATION

POLICY AND PROCEDURES FOR CONFIDENTIALITY

REVISED DATE: 03/17

Site Visit Guidelines 2.2, 2.3, 4.2

POLICY:

According to the Texas Health and Safety Code, Chapter 81, §81.103(d):

A person tested [for HIV] or a person legally authorized to consent to the [HIV] test on the person's behalf may voluntarily release or disclose that person's test results to any other person, and may authorize the release or disclosure of the test results. An authorization under this subsection must be in writing and signed by the person tested or the person legally authorized to consent to the test on the person's behalf. The authorization must state the person or class of persons to whom the test results may be released.

Ryan White Grant Administration will enforce the protection of confidentiality for all clients served by Ryan White Part A funds in the Houston EMA.

PROCEDURES:

Consents to Release/Exchange Information

1. Except as noted below, an agency will obtain the informed written consent of the client or the legally responsible individual prior to releasing or exchanging Protected Health Information (PHI) with a third party any information that directly or indirectly reveals the client's HIV+ status.
 - A medical (physical, mental or emotional) emergency, in which case information may be released to medical personnel or the appropriate regulatory agency (e.g. Adult Protective Services) only, after verbal consent—if possible—is obtained from the client or legally responsible individual
 - A court order or subpoena
2. All consents to release/exchange information must contain the expiration date of client authorization (or expiration event) that is no longer than 2 years from the date of original signed consent.
3. All consents to release/exchange information must contain the names of the individuals and/or agencies to whom the information may be released.

4. There is no limit to the number of persons and/or agencies that can be listed on a single consent form. However, any consent form containing a pre-printed list of agencies must include an option for clients to limit their consent to only the agencies of their choice by drawing a line through the agencies they do not want and initialing it.
5. All consents to release/exchange information must contain the type(s) of information that may be released and the purpose or reason for the release.
6. Consents to release/exchange information must be separate from the consent for services.
7. All sections on the consent to release/exchange information form must be completed prior to the form being signed by the client. Under no circumstances should a client be asked to sign an incomplete or blank consent form. All unused lines must be crossed out. Furthermore, no additional agencies or individuals may be added to the consent form after the date of original signature; a new form must always be used for any additions.
8. Consent to release/exchange information is not required for verbal or written communications that do not involve the disclosure of client identifying information (e.g. calling service providers to inquire about service availability without giving a client's name or social security number).
9. The client record must contain documentation of each instance of disclosure of confidential information, including the date, nature and purpose of the disclosure, the name of the agency or individual to whom the information is disclosed, and the signature of the agency representative disclosing the information.
10. The agency will obtain a signed "Statement of Confidentiality" from all officers, employees and/or volunteers who require access to client records in order to perform their duties. The statement will indicate that the undersigned agrees to respect the confidentiality of all agency clients.
11. Clients will be allowed to withdraw their consent to release/exchange information with any individual or organization at any time.

Examples of direct and indirect disclosure:

- A. **Direct disclosure:** any verbal or written communication with a third party that discloses the name or other identifying information (e.g. social security number) of an HIV+ individual and the individual's HIV+ status
- B. **Indirect disclosure:** any verbal or written communication with a third party that discloses the name or other identifying information (e.g. social security number) of an HIV+ individual, such that the third party can reasonably infer that this individual is HIV+.

- Disclosure of client identifying information in the course of seeking services for the client from a service provider that serves primarily HIV+ persons.
- Disclosure of client identifying information in conjunction with disclosure of the name of the agency providing the information when this agency serves primarily HIV+ persons, regardless of whether or not the name of the agency directly reveals its target population
- Disclosure of identifying information in conjunction with disclosure of the name of the individual providing the information when this individual is well-known in the medical and/or social work community as an HIV provider.
- Leaving a return number on an answering machine, voice mail or pager that, when called by another household member, could result in the disclosure of protected information (e.g. the agency receptionist answers the phone, “Hello, Sunshine AIDS Services” before transferring the call).
- Written correspondence to the client containing a revealing return address (e.g. “from Sunshine AIDS Services”), e-mail address, etc. that could be viewed by another household member

Client Access to Records

1. The agency will obtain a signed and dated written request from the client or the legally responsible individual indicating which documents are being requested. The client may request the entire record.
2. Within 10 days of receiving a written request, the agency will allow the client or legally responsible individual to view the record and/or provide a copy of the record or the record documents requested, unless a physician determines that access to the information would be harmful to the physical, mental or emotional health of the client.
3. If the request is denied, based on a physician’s determination that access would be harmful to the client, the agency will provide the client or legally responsible individual with a written statement, signed by the physician making the determination, indicating the reason for the denial. A copy of this statement will also be placed in the client record.
4. The agency may charge a reasonable fee, not to exceed \$25 for the first 20 pages and \$.15 for each additional page, for copying records and may require that the fee be paid before releasing the copies to the client.

5. Prior to allowing a client access to his or her record, the agency will redact any confidential information pertaining to other clients and/or friends, relatives or family members of the client who have not consented to the release, even when the client has provided written consent to exchange information with these persons (e.g. a private conversation with a client's spouse regarding the client's drug or alcohol use).
6. Unless the client or legally responsible individual states otherwise, the signed request for the record includes documents received from other service providers as well as those produced by the agency releasing the record.
7. If the client or legally responsible individual disputes information contained in the record, he or she may submit to the agency a signed and dated written request that the record be amended.
8. Within 10 working days of receiving a written request for amendment, the agency must amend the record as requested or provide the client with a written statement explaining why the amendment request was denied and how to file an appeal with the agency director or the director's designated representative.

Records Administration

1. All client records and other records containing client-identifying information are confidential and must be housed in file cabinets and drawers with working locks. These should be locked securely during all non-working hours and during working hours when the records are not in use.
2. File cabinets and drawers containing confidential records must be located in areas of the agency facility that are not freely accessible to clients or the general public.
3. Clients and other agency visitors will not be left unaccompanied by agency staff in an office or any portion of an agency facility containing unlocked confidential records.
4. Only agency staff and/or volunteers who have signed a "Statement of Confidentiality" will be allowed access to confidential records.
5. Confidential records will be re-filed as soon as possible after use.
6. Confidential record documents, i.e. any documents containing client-identifying information, will be shredded prior to disposal.
7. Except under very unusual circumstances (e.g. a move to a new facility, archiving), confidential records will not be removed from the agency facility in which they are housed. Confidential records will not be taken on home or field visits or taken home by agency staff.

8. Client records must be maintained by the agency for at least five (5) years following the last date of service to the client.

Approved by Manager
HCPH – Ryan White Grant Administration

Date